

PATRICK L. FORTE #80050  
ANNE Y. SHIAU, #273709  
LAW OFFICES OF PATRICK L. FORTE  
One Kaiser Plaza, #480  
Oakland, CA 94612  
Telephone: (510) 465-3328  
Facsimile: (510) 763-8354

Attorney for Debtors

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re:

**Case No. 13-44686 RLE**

**JAMES DALE ELKINS and  
JANICE GAYLE ELKINS,  
Debtors.**

**Chapter 7**

**MOTION TO AVOID JUDICIAL LIEN  
IMPAIRING EXEMPTION**

TO: *Discover Bank*

The real property, which is the subject of this motion, is the Debtors' principal place of residence and is located at 4440 Fawn Hill Way, Antioch, CA 94531.

1. On April 30, 2013, Discover Bank caused to be recorded an Abstract of Judgment, document 2013-0107512-00, with the Contra Costa County Recorder's Office in the sum of \$11,773.88, attached hereto as Exhibit A.

2. The property is encumbered by a First Deed of Trust in favor of Provident Funding Associates, LP, as evidenced by the face page of the recorded deed of trust, a copy of which is attached as Exhibit B.

3. The First Deed of Trust was assigned to Bank of America, N.A. as recorded in Contra Costa County on or about August 29, 2013 as document 2013-0215047-00, as evidenced by the recorded assignment Deed of Trust,

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1 a copy of which is attached as Exhibit C and made a part hereof.

2 4. At the time of filing Debtors owed approximately \$321,140.32 to  
3 Bank of America, N.A. the first position creditor, as evidenced by the  
4 debtors' mortgage statement issued by Bank of America, N.A. in August  
5 2013, a copy of which is attached as Exhibit D and made a part hereof.

6 5. At the time of filing Debtors believe the real property had a  
7 market value of \$292,209.00.

8 6. The lien impairs the exemption in the real property taken by the  
9 Debtors.

10 7. Debtors hereby move the Court for an order pursuant to 11 U.S.C.  
11 Section 522(f) (1) (A) avoiding the lien on their real property. Debtors  
12 are entitled to an order avoiding the lien on the grounds that the lien  
13 is a judicial lien which impairs an exemption to which the debtors are  
14 otherwise entitled.

15 WHEREFORE, debtors requests that an Order be entered avoiding the  
16 judicial lien of Discover Bank.

17  
18 Dated: October 2, 2013

/s/ Anne Y. Shiau

ANNE Y. SHIAU

Attorney for Debtors